

med mary



CITY OF OCEANSIDE

**MAYOR
JIM WOOD**

August 26, 2010

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The Honorable Kevin A. Enright
Presiding Judge
San Diego County Superior Court
220 W. Broadway
San Diego, CA 92101

Re: City of Oceanside's Response to San Diego County Grand Jury Report on Medical Marijuana in San Diego

This letter responds to the San Diego County Grand Jury's report, entitled "Medical Marijuana in San Diego." Pursuant to Penal Code section 933.05, the City Council has authorized the filing of this response to the findings and recommendations related to the City of Oceanside.

Response to Finding 5.

This finding indicates that the adoption of cost neutral zoning and land use regulations is an effective way of licensing, regulating, and inspecting medical marijuana dispensaries. The City of Oceanside recently extended its moratorium on the establishment of medical marijuana dispensaries. During the period of the moratorium, the City is evaluating all potential regulatory approaches, including a complete ban on dispensaries. The City is also monitoring developments in the case law, in particular, the ban on dispensaries challenged in the Anaheim case. Until the City's evaluation is complete, it is premature to determine whether any specific regulatory approach is effective, therefore, the City does not agree with Finding 5 at this time. The City notes that no specific examples of any effective zoning or land use regulations were included in the Grand Jury's report to support Finding 5.

Response to Finding 6.

Here, the Grand Jury finds that the recommendations of the City of San Diego Medical Marijuana Task Force for zoning and land use ordinances may serve as a model for adoption by other Cities in San Diego County. While the moratorium is pending, Oceanside will evaluate the recommendations of the Task Force before finalizing any land use regulations.

Response to Finding 10.

In Finding 10, the Grand Jury concludes that the current moratorium on opening medical marijuana dispensaries deprives some qualified patients access to marijuana in their communities. There is no evidence cited in the Grand Jury Report that any qualified patient has been deprived access in Oceanside. Furthermore, Oceanside's moratorium contains specific exemptions to allow qualified

patients to receive medical marijuana from several legitimate medical providers. Consequently, the City does not agree with this finding.

Response to Finding 11.

In Finding 11, the Grand Jury indicates that the imposition of regulatory fees and associated costs could create a financial hardship for the smaller medical marijuana cooperatives and collectives. As noted above, the City does not currently allow medical marijuana dispensaries. As a result, there are no regulatory fees for this use in Oceanside. The City has not evaluated regulatory fees of other jurisdictions and is therefore unable to determine if any other agency's regulatory fees create a financial hardship.

Response to Recommendation 10-120.

The Grand Jury recommends that the City adopt a cost neutral program for the licensing, regulation and monitoring of medical marijuana collectives and cooperatives, and to establish a limit on the number of such facilities. As discussed above, Oceanside is currently operating under a moratorium which will remain in effect until no later than May 12, 2011. While the moratorium is in effect, the City is researching various approaches to the licensing of these facilities, including a permanent ban on dispensaries. The City continues to monitor developments in relevant case law as well. Until the City has completed its research, the appellate court rules on the Anaheim case, and additional public hearings are conducted, Oceanside believes it is premature to enact any further regulations. As a result, this recommendation is unwarranted and will not be implemented at this time.

Response to Recommendation 10-121.


This recommendation indicates the City should adopt regulations which would allow for the closure of unlicensed dispensaries. The City has a validly adopted moratorium on all dispensaries. At least one unlicensed dispensary has been closed by the City. Therefore, this recommendation has already been implemented.

Response to Recommendation 10-122.

The Grand Jury recommends that upon the enactment of an ordinance closing unlicensed dispensaries, the current moratorium be terminated. For the same reasons discussed in its response to Recommendation 10-120, this recommendation is unwarranted at this time and will not be implemented.

Thank you for the opportunity to provide this response to the Grand Jury's recommendations. If you need additional information, the City Attorney and City Manager are available to answer any questions.

Sincerely,



JIM WOOD
Mayor